

EX PARTE OR LATE FILED

RECEIVED

MTI (U.S.), Inc.
1627 Eye Street, N.W.
Suite 880
Washington, DC 20006

JUL 12 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

July 12, 1994

DOCKET FILE COPY ORIGINAL

Federal Communications Commission
Office of the Secretary
1919 M Street, N.W.
Washington, DC 20554

Re: GN Docket 93-252 (Nextel's Request for 100 Exclusive
Statewide Channels)

Dear Sirs:

MTI, Inc. is an applicant for various SMR authorizations. It is owned by the undersigned businessman and non-communications attorney, who has owned partial interests in several FCC licenses. MTI is capable of financing both SMR and ESMR systems, and, based upon discussions with other small SMR licensees and applicants, MTI will be able successfully to amalgamate its SMR licenses with sufficient others to offer EMSR service in multiple markets. Nextel now seeks preferential treatment that would make it impossible for MTI, or anyone else, to compete with Nextel and its fellow public EMSR companies, such as, Motorola, Dial Page and One Com.

At the very time when competition appears to be opening-up in local telephone service, long-distance telephone service, cable TV service, and off-air TV delivery, and PCS and SMR are joining cellular in the wireless telephone arena, Nextel seeks protection from competition of all sorts from all quarters on any basis in the ESMR arena. Without any "hard" evidence, Nextel simply claims that it cannot compete with cellular and PCS without equal spectrum. To the contrary, beyond the larger MSA's, based on even cursory studies of cellular telephone's channel usage and subscriber counts, it is evident that multiple ESMR systems can function side-by-side in most U.S. markets; and this should be the FCC's assumption. As the FCC has historically ruled in "economic injury cases" in radio, the person seeking to restrict competition should have the heavy burden of making a prima facie case, up front, that its survival is dependent upon such protections. Nextel has not come close to making that prima facie case.

No. of Copies rec'd
List ABCDE

Aug

July 12, 1994
Page 2

Nextel, Motorola, Dial Page, and One Com do not want competition in any form. They already have a virtual stranglehold on the entire nation's SMR licenses. Now they request (via Nextel's filing) a massive complement of extra spectrum (enough for 100 more channels per market) and expansion of their market footprints from a 25-mile radius to a statewide one, which is vastly larger than what the two cellular systems per MSA now enjoy. Furthermore, they seek the right to exchange their markets (Major Trading Areas) with their colleagues, thus making certain that none of them will ever need to compete against the others. And they seek to restrict all remaining possible SMR competitors (all other SMR firms and applicants) to the impossible posture of providing service on a 25-mile-radius basis, dismissing them as "speculators." All new competitors in one sense are "speculators" until they succeed in offering a competitive service. MCI was a speculator at one time; Federal Express was a speculator. The public can only lose when competition is curtailed in this manner.

Nextel's groundless claim that it "needs" all these protections, from big cellular companies, from PCS firms, and even from small-market ESMR competitors, is simply not credible. Nextel seeks total protection based upon bear assertions and its own fear for its very large hoped-for profits. Nextel and its "fellow travellers" deserve no more special favors from the FCC.

Respectfully submitted,

MTI, Inc.

By


President

cc: Chairman Reed E. Hundt
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, D.C. 20554

Commissioner H. Quello
Federal Communications Commission
Room 802
1919 M Street, N.W.
Washington, D.C. 20554

July 12, 1994
Page 3

Commissioner Andrew C. Barrett
Federal Communications Commission
Room 826
1919 M Street, N.W.
Washington, D.C. 20554

Commissioner Susan P. Ness
Federal Communications Commission
Room 832
1919 M Street, N.W.
Washington, D.C. 20554

Commissioner Rachalle B. Chong
Federal Communications Commission
Room 844
1919 M Street, N.W.
Washington, D.C. 20554